

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOSEPH KETSENBURG,)
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Movant,)
)
)
v.) Case No. 4:18 CV 2155 CDP
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)
UNITED STATES OF AMERICA,)
)
)
Respondent.)

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. 4:09 CR 690 CDP
)
)
JOSEPH KETSENBURG,)
)
Defendant.)

MEMORANDUM AND ORDER

On April 21, 2010, Joseph Ketsenburg pled guilty to two counts of possession of child pornography in Case No. 4:09CR690 CDP. On July 21, 2010, I sentenced him to two concurrent terms of 120 months' imprisonment, to be followed by a lifetime term of supervised release. That supervision began March 2, 2018. Upon petition and recommendation by the probation office, an arrest warrant issued for Ketsenburg on May 21, 2018, for alleged violations of his supervised release. Ketsenburg appeared before me on June 28, 2018, waived a hearing, and admitted to

the violations. I revoked his supervised release and sentenced him to two concurrent terms of ten months' imprisonment, again to be followed by a lifetime term of supervised release. Ketsenburg has now filed a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 (Case No. 4:18CV2155 CDP), challenging the conditions of his supervised release that were imposed in June 2018.

Ketsenburg has filed several motions and requests in both the § 2255 case and in the underlying criminal case, which I now address.

Motions/Requests to Proceed In Forma Pauperis and Requests for Transcripts
(Case No. 4:09CR690 CDP – ECF #61)
(Case No. 4:18CV2155 CDP – ECF #22, #23)

Upon the filing of his § 2255 motion to vacate, Ketsenburg moved to proceed *in forma pauperis*. Because there is no filing fee for a § 2255 action, I denied the motion as moot given that IFP was not necessary for Ketsenburg to proceed with the case. Ketsenburg continues to file IFP motions, however, requesting pauper status for the purpose of ordering transcripts. In the criminal case, he has filed transcript requests for the original plea and sentencing that were held in 2010, as well as for the June 2018 revocation hearing.

Upon review of Ketsenburg's motions to proceed IFP and his accompanying affidavit and documents, I will grant him IFP status for the purpose of obtaining the requested transcripts from the underlying criminal case, Case No. 4:09CR690 CDP, and specifically: the change of plea proceeding, dated April 28, 2010; the sentencing proceeding, dated July 21, 2010; and the supervised release revocation hearing, dated

June 28, 2018.

Motion for Preliminary Injunction/Temporary Restraining Order

(Case No. 4:09CR690 CDP – ECF #62)

(Case No. 4:18CV2155 CDP – ECF #24)

Although Ketsenburg captions this motion as one for a preliminary injunction or temporary restraining order, he actually requests that the terms of his supervision be modified to permit him to access computers in order to conduct legal work for his § 2255 case. Such requests to modify conditions of supervision should only be filed in the criminal case and only after discussing the requested change with the probation officer. Nevertheless, upon review of the government's response to the motion, Ketsenburg's later-filed motion for extension of time, and information provided by the Probation Office, it appears that Ketsenburg has obtained the requested relief, that is, limited use of computers at the Aquinas Center and at the Missouri Career Center to the extent he needs such access for legal work on his § 2255 case. The motion is therefore moot and will be denied.

Motion to Grant Proposed Temporary Conditions of Supervised Release

(Case No. 4:09CR690 CDP – ECF #56)

Ketsenburg proposes various temporary conditions of supervised release to be imposed in the event that he prevails on his § 2255 motion to vacate. This request is speculative and premature. In addition, because the Court is the final arbiter as to what relief, if any, shall be provided in the case, it is unnecessary for Ketsenburg to propose any conditions of release, temporary or otherwise. I will therefore deny this

motion.

Motion for Additional Time to Respond to Government's Response

(Case No. 4:18CV2155 CDP – ECF #25)

I will grant Ketsenburg additional time to respond to the government's response to his § 2255 motion to vacate. This additional time should provide Ketsenburg a sufficient opportunity to review the transcripts of the underlying criminal proceedings, as requested.

Accordingly,

IT IS HEREBY ORDERED that Joseph Ketsenburg's requests to proceed *in forma pauperis* for the purpose of obtaining transcripts of criminal proceedings in Case No. 4:09CR690 CDP, and specifically: the change of plea proceeding, dated April 28, 2010; the sentencing proceeding, dated July 21, 2010; and the supervised release revocation hearing, dated June 28, 2018, are **GRANTED**. [Case No. 4:09CR690 CDP – [61]; Case No. 4:18CV2155 CDP – [22] [23]]

IT IS FURTHER ORDERED that Ketsenburg's motions for preliminary injunction and temporary restraining order are **DENIED as moot**. [Case No. 4:09CR690 CDP – [62]; Case No. 4:18CV2155 CDP – [24]]

IT IS FURTHER ORDERED that Ketsenburg's motion for temporary conditions of supervised release is **DENIED as premature and unnecessary**. [Case No. 4:09CR690 CDP – [56]]

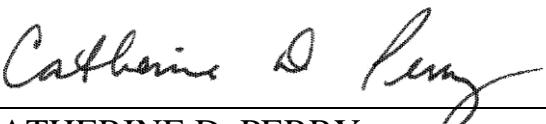
IT IS FURTHER ORDERED that Ketsenburg's motion for additional time to

respond to the government's response to his § 2255 motion to vacate is **GRANTED**.

Ketsenburg shall have to and including **May 17, 2019**, by which to file his response.

[Case No. 4:18CV2155 CDP – [25]]

All future filings are to be made in the appropriate case and should not be filed in both the criminal case and the § 2255 action. Any filings addressing the present status and/or seeking modification of conditions of supervised release shall be filed in Case No. 4:09CR690 CDP. Any filings addressing the claims raised and cognizable under 28 U.S.C. § 2255 shall be filed in Case No. 4:18CV2155 CDP.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 8th day of April, 2019.